

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Tony Gaines,

Petitioner,

v.

Case No. 1:07cv347

Warden, Lebanon Correctional
Institution,

Judge Michael R. Barrett

Respondent.

ORDER

This matter is before the Court on the Report and Recommendation filed by the Magistrate Judge on May 13, 2009 (Doc. 26).

Proper notice has been given to the parties under 28 U.S.C. § 636(b)(1)(C), including notice that the parties would waive further appeal if they failed to file objections to the Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947 (6th Cir. 1981). No objections to the Magistrate Judge's Report and Recommendation have been filed.

Having reviewed this matter de novo pursuant to 28 U.S.C. 636, this Court finds the Magistrate Judge's Report and Recommendation to be correct.

Accordingly, it is **ORDERED** that the Report and Recommendation of the Magistrate Judge is hereby **ADOPTED**. Petitioner's Motion to Stay (Doc. 12) is **GRANTED**. This matter is stayed but will be administratively closed subject to reopening by the Petitioner. As a condition of the stay, Petitioner must comply with the terms of the stay consistent with the Report and Recommendation of the Magistrate by exhausting his

Ohio remedies. Pursuant to those findings, the Court will grant leave to the Petitioner to reinstate this matter to the active docket of this Court.

IT IS SO ORDERED.

s/Michael R. Barrett
Michael R. Barrett
United States District Judge